

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL MCNEIL,

Plaintiff,

v.

WILLIAM GITTERE, et al.,

Defendants.

Case No. 3:24-cv-00188-MMD-CLB

ORDER

Plaintiff files a motion seeking the appointment of counsel. (ECF No. 12). In his motion, Plaintiff requests counsel for the following reasons: (1) he cannot afford counsel; (2) he is located in Virginia; (3) there is limited access to the law library; (4) he has a limited knowledge of the law; (5) he cannot conduct discovery and has requested a jury trial; and (6) his case has merit. (*Id.* at 13).

A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983 civil rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford counsel.” However, the court will appoint counsel for indigent civil litigants only in “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.’” *Id.* “Neither of these considerations is dispositive and instead must be viewed together.” *Id.*

In the instant case, the Court does not find exceptional circumstances that warrant the appointment of counsel. The reasons for counsel that Plaintiff submits in his motion are common circumstances that affect many inmate-plaintiffs. See *Baker v. Macomber*,

1 No. 2:15-CV-00248-TLN-AC, 2020 WL 1182495, at *1 (E.D. Cal. Mar. 12, 2020) (finding
2 that “[c]ircumstances common to most prisoners, such as lack of legal education and
3 limited law library access, do not establish exceptional circumstances that warrant a
4 request for voluntary assistance of counsel”). Therefore, the Court denies the motion for
5 counsel (ECF No. 12) without prejudice.

6 DATED THIS 25th day of April 2025.



UNITED STATES MAGISTRATE JUDGE